

CITY OF FOLEY

COUNTY OF BENTON

STATE OF MINNESOTA

ORDINANCE NUMBER 430

AN INTERIM ORDINANCE ESTABLISHING A MORATORIUM ON THE APPROVAL
AND SITING OF TELECOMMUNICATION TOWERS AND WIRELESS
TELECOMMUNICATIONS FACILITIES WITHIN THE CITY OF FOLEY

WHEREAS, the Foley City Council administers zoning within the City of Foley (the “City”); and

WHEREAS, the Council may regulate land use as part of the City’s zoning authority;

WHEREAS, the Minnesota Legislature has, by laws of Minnesota for 2017, Chapter 94, Article 9, Sections 1 through 20, amended Minn. Stat. §§ 237.162 and 237.163 (the “Law”) which, among other things, developed a process for the deployment and use of small cell wireless technology and facilities along the public rights-of-way within the State’s local units of government, including the City;

WHEREAS, the City’s ordinances, as currently drafted, do not contemplate the deployment and use of small cell wireless technology and facilities along the public rights-of-way;

WHEREAS, the Law allows the City to enact or maintain a moratorium on the filing, receiving, processing or approval of applications for telecommunication towers and wireless telecommunications facilities within the City until December 31, 2107 in order to allow the City time to review its Comprehensive Plan and enact appropriate ordinances consistent with the Law.

NOW THEREFORE THE CITY COUNCIL MAKES THE FOLLOWING FINDINGS:

1. In light of the Law created by the new legislation, the City has determined to complete the study to consider the impact of telecommunication projects and the Law on planning and development within the City;
2. The City remains concerned that unregulated telecommunication projects in the City may be inconsistent with future development under the Comprehensive Plan and may disrupt the development of the City;
3. The City is concerned that its existing regulations and ordinances are inconsistent with the Law and is also concerned that unregulated telecommunication projects in the City may have adverse aesthetic, environmental, social, health, and safety impacts on adjacent properties or people within the City;

4. The City desires to impose a moratorium on the construction of telecommunication projects in order to adopt regulations and ordinances consistent with the Law, facilitate further consideration of compatibility with future planning and development in the City, and to ensure such projects do not cause adverse aesthetic, environmental, social, health, and safety impacts on adjacent properties or people within the City;
5. The City Council needs an opportunity to review the Law and conduct a study of the potential impacts of telecommunication projects, review the appropriateness of existing regulations and ordinances for consistency with the Law, codify appropriate definitions, consider appropriate performance standards, and schedule a public hearing before amending the zoning ordinance;
6. During the time of the study, it is necessary to protect the natural environment, the existing land uses, existing property values, and preserve and protect the rights of existing property owners within the City;
7. An interim ordinance, pursuant to Minnesota Statutes § 462.355, is necessary to allow the City time to update its ordinances and regulations to bring them into compliance with the Law as well as to restrict telecommunication projects from affecting the natural environment, existing land uses, and existing property values, and the rights of existing property owners during this time;
8. An interim ordinance prohibiting telecommunication projects is necessary to protect the planning process, development under the Comprehensive Plan, and the health, safety and welfare of the citizens of the City during the time of the study.

NOW, THEREFORE, pursuant to Minnesota Statutes 462.355 and the laws of Minnesota for 2017, Chapter 94, Article 9, Sections 1 through 11, the Foley City Council hereby ordains:

Section 1. Interim Ordinance.

1. Temporary Restriction on all new telecommunication towers and wireless telecommunication facilities. A moratorium prohibiting the construction, installation, replacement, or enlargement of telecommunication towers and wireless telecommunication facilities, including but not limited to, small cell wireless technology, and the interrelated planning factors to determine whether any new or different regulations, approaches or enhancements are necessary to effectively plan and reasonably regulate telecommunications towers and wireless telecommunication faculties and to protect the health, safety, and welfare of its citizens is hereby established. This moratorium also extends to the filing, receiving, processing or approval of applications for telecommunication towers and wireless telecommunications facilities
2. Duration. This moratorium shall be in effect until December 31, 2017, or until such earlier time as the Foley City Council determines the moratorium is no longer necessary.
3. Effective Date. This Ordinance shall be effective immediately upon its adoption.

4. Validity. Every section, provision, or part of this Ordinance is declared severable from every other section, provision, or part thereof to the extent that if any section, provision, or part of this Interim Ordinance shall be held invalid by a court of competent jurisdiction, it shall not invalidate any other section, provision, or part thereof.
5. Enforcement and Penalty. The City may enforce this Ordinance by injunction or any other appropriate civil remedy in any court of competent jurisdiction. A violation of this Interim Ordinance shall constitute a misdemeanor. Each day a violation occurs shall be considered a separate offense.
6. Existing Permitted Towers. This moratorium shall not apply to the replacement of existing antennas on existing permitted telecommunication towers.

Section 2. Summary Publication.

At least four-fifths of the City Council’s members direct the Administrator to publish only the title and a summary of this Ordinance as follows:

“AN INTERIM ORDINANCE ESTABLISHING A MORATORIUM ON THE APPROVAL AND SITING OF TELECOMMUNICATION TOWERS AND WIRELESS TELECOMMUNICATIONS FACILITIES WITHIN THE CITY OF FOLEY. It is the intent and effect of this Ordinance to prohibit all telecommunication projects until the City of Foley can study the effects of such activities and ensure that zoning regulations are consistent with existing law and adequately protect public health, safety, and welfare.”

Adopted this 21st day of September, 2017

Gerard L. Bettendorf, Mayor

ATTEST:

Sarah A. Brunn, Administrator